

REMARKS

Reconsideration of this application is requested.

With entry of this amendment, the claims pending for consideration are claims 1, 2, 3, 4, 11-13, 15-17, 19, 20, 22, 24-29, 36-38, 40-42, 44, 45 and 49-59. These claims are thought to be allowable for reasons discussed below.

Claims 1 and 28 have been amended to define the applicants' compositions and capsules according to the disclosure at page 13, 2nd full paragraph. Thus, these claims call for aminoplast capsules which have an encapsulating wall which includes a coating of film-forming polymer on the inner surface of the wall and a coating of polyvinyl alcohol, polyvinylpyrrolidone or copolymer of polyvinylpyrrolidone on the outer surface of the encapsulating wall. There is nothing in the art of record suggesting the applicants' compositions or capsules as claimed.

Dependent claims have been either canceled or amended, taking into account the amendments to claims 1 and 28. For example, claim 14 has been canceled as redundant as the feature thereof has been added to claim 1. It is to be understood that the cancellation of claims is without prejudice to possible continuation filing directed to subject matter deleted from the pending claims.

The applicants note that the Examiner has maintained the Section 103(a) rejection of the applicants' claims based on Ness WO 02/074430 in view of Natske et al. WO 96/03041 (§¶ No. 1, page 3 of the action). It appears, however, that the Examiner has not considered the applicants' Supplemental Response of January 23, 2008 wherein it was pointed out that Ness does not qualify as citable art against the applicants.

As pointed out in the Supplemental Response, the present case is a national phase filing of PCT/GB03/0351808, filed August 12, 2003. Accordingly, August 12, 2003 is the applicants' U.S. filing date. This is less than a year after the publication date (September 26, 2002) of Ness WO 02/074430. Accordingly, the Ness WO disclosure can qualify as prior art only under Section 102(e) and this sort of art is not citable against the applicants pursuant to the exception provided under 35 U.S.C. 103(c), i.e. the invention described in the published Ness WO application and the invention claimed herein were commonly owned (by Quest International BV) or under obligation for common ownership at the time the present invention was made. It is noted that Ness is in fact a co-inventor herein.

In view of the foregoing, the Examiner is requested to withdraw the Section 103(a) rejection of claims 1-5, 11-20, 25, 27-30, 36-45, 50, 51 and 54-57 based on Ness WO 02/074430 and Natske et al.

Detailed comment on the Examiner's rejection of the claims based on Ness WO 02/074430 and Natske et al. is not thought necessary in view of the indicated inapplicability of the WO disclosure as art citable against the present case. It is noted, however, that, even if Ness WO 02/074430 could be relied on, the Ness disclosure and Natske et al. do not make the applicants' invention obvious for the reasons set forth in the applicants' response of December 19, 2007, incorporated herein by reference. There is, furthermore, nothing in the Examiner's references suggestive of a composition or capsule where the inner and outer surfaces of the encapsulating wall are coated as called for by the applicants' claims.

This leaves for consideration the Examiner's Section 103(a) rejection of claims 1-4, 11-29 and 36-59 as unpatentable over Ness et al. U.S. 6,194,375 in view of Natske et al. WO 96/03041. The applicants submit that there is no proper basis in the art to warrant the Examiner's proposed combination of references. However, even if the references are considered together, the combination does not reach or suggest the applicants' invention, particularly as defined by the presently amended claims.

As the Examiner has recognized, Ness does not disclose a capsule having a coating on the inner surface of the encapsulating shell wall. This is an essential feature of the applicants' invention. Furthermore, there is no suggestion in either of the Examiner's references of a perfume composition or capsules where the inner and outer surfaces of the encapsulating wall are coated as now required by the applicants' claims.

The applicants submit, with respect, that the respective situations presented by Ness on the one hand and Natske et al. on the other, are so different that there is really no reason to combine these references to reject the applicants' claims, particularly as now amended. Natske et al. are concerned with agrochemicals or the equivalent which are fundamentally different from perfumes. This is shown by the following:

Perfumes are typically small organic molecules of molecular weight 150-250, which are generally fairly insoluble in water. They are quite difficult to encapsulate because of

- (i) their small molecular size (easy diffusion through small pores),
- (ii) solubility in surfactant solutions (the surfactant can pull the perfume out of a capsule and there is a strong thermodynamic driving force for it to leave the capsule in surfactant containing products e.g. most consumer products)
- (iii) their solubility in organic materials, again allowing relatively easy diffusion.


Most agrochemicals typically lie outside the perfume property range, e.g. they are either

(i) water-soluble - in which case one cannot use the encapsulation methods disclosed by the applicants as these rely on forming an oil (perfume) in water emulsion

(ii) larger molecular weights and very insoluble in water - in which case diffusion through a wall is more difficult anyway. Furthermore, agrochemicals are generally not soluble in surfactant solutions (greatly reducing the thermodynamic driving force for leaving the capsule). Thus, it is much easier to keep such materials in a capsule compared to perfume. Accordingly, perfume, such as those of interest to the applicants, present specific problems that require special solutions such that what might be done with agrochemicals is not reasonably suggestive of what could be used to solve a problem in the perfume art. In short, there is no motivation in the art to combine features from Natske et al. with Ness although, as noted, even if such features are selectively grouped together, the applicants' invention as claimed does not result because the applicants require coatings of specifically defined types on both the inner and outer surfaces of the encapsulating wall of aminoplast capsules. There is nothing in the Examiner's citations suggestive of the specific combination of features called for in the applicants' claims as amended. Clearly, neither Natske et al. nor Ness is concerned with the problem of perfume retention for perfume encapsulates. Hence, there is no suggestion or motivation in the art to reach the applicants' invention although, even if the references are selectively combined, the applicants' invention, as claimed, does not result when one takes into account the specific limitations called for by the applicants' claims.

Favorable reconsideration with allowance is requested.

Respectfully submitted,
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